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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Satellite Delivery of Network Signals)
to Unserved Households for)
Purposes of the Satellite Home)
Viewer Act)

To: The Commission)

CS Docket No. 98-201
RM No. 9335
RM No. 9345

COMMENTS OF

THE NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION

The National Rural Electric Cooperative Association ("NRECA"), pursuant to Section 1.430 of the Rules and Regulations of the Federal Communications Commission, appreciates this opportunity to submit Comments in response to the above-captioned Notice of Proposed Rulemaking. NRECA applauds the Commission's active involvement in resolving the "Grade B problem" that has prevented the satellite industry from providing distant network signals to subscribers in rural America who are unable to receive acceptable network signals over-the-air. We support the efforts of the National Rural Telecommunications Cooperative ("NRTC") and the Satellite Broadcasting and Communications Association ("SBCA") urging the Commission to modernize its Grade B signal strength standard adopted in the 1950s and implement the revised signal strength standards, measurement methodologies and predictive model ("TIREM-2") recommended by NRTC and SBCA.

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I. Background

NRECA is the national association of more than 1,000 consumer-owned rural electric generation & transmission and distribution systems which serve more than 30 million people in the rural areas of 2,600 counties in 46 states. The consumers of these systems are primarily located in rural areas. Many of these consumers have chosen to receive DBS service because no cable operator serves the area, and they cannot receive over-the-air television signals of acceptable quality from local broadcasters. Unlike many other Americans, these rural consumers have no choice but to receive programming through satellite delivery technology if they want to be a part of the modern Information Age. As Mike Guidry, General Manager of the Southern Louisiana Electric Cooperative testified on April 1, 1998 before the House Commerce Committee Subcommittee on Telecommunications, Trade and Consumer Protection, "When some consumers may not even legally receive distant network signals because they live within some theoretical 'Grade B' contour of the local network affiliate, that too is unfair and discriminatory against rural America."

II. Comments

NRECA supports the Commission's efforts to address in this proceeding the issues raised in the Emergency Petition for Rulemaking ("Emergency Petition") filed by NRTC on July 8, 1998 (RM No. 9335). The Emergency Petition was initiated by NRTC to prevent the then imminent disenfranchisement of one million or more consumers resulting from the U.S. District Court for the Southern District of Florida interpretation of the "unserved household" provision of the Satellite Home Viewer Act of 1988 ("SHVA"). In its Emergency Petition, NRTC urged the Commission to address this crisis by establishing a consumer-friendly, understandable and fair

definition of “an over-the-air signal of Grade B intensity” for purposes of applying the “unserved household” restriction of the SHVA. 17 U.S.C. 119 (d)(10). NRTC suggested adoption of a Grade B standard that would reflect “a geographic area in which 100% of the population, using readily available and affordable equipment, receives over-the-air coverage by network affiliates 100% of the time.” (Emergency Petition at p.16).

Shortly after NRTC filed its Emergency Petition, the Florida District Court issued its Preliminary Injunction and prohibited PrimeTime 24, the satellite carrier, from providing CBS and Fox network programming to any consumer within an area shown on Longley-Rice propagation maps as receiving a signal of at least Grade B intensity from a CBS or Fox primary network station. With the consent of the parties, the compliance date was later extended by the court to February 28, 1999.

NRECA commends the Commission for acting promptly to address this problem in response to the NRTC Emergency Petition and the court injunction. The Longley-Rice model, as applied by the U.S. District Court in Florida, will result in the unfair disenfranchisement of rural consumers across the country who in fact are unable to receive acceptable local signals over-the-air. It is based on extremely low and unrealistic probabilities: an acceptable over-the-air signal is received at only 50% of the locations, only 90% of the time, with only 50% confidence, and it does not consider the effect of trees, vegetation, buildings or interfering radio signals on the likelihood that the primary signal will actually be received by the consumer in an acceptable form. More importantly, as pointed out by NRTC and SBCA, the Grade B signal intensity standard itself was created in the 1950s and no longer can be deemed an accurate indicator of an “acceptable” television picture in today’s multichannel video distribution marketplace.

NRECA urges the Commission to implement the revised signal strength standards, measurement methodologies and predictive model ("TIREM") requested by NRTC and SBCA. In that manner, at least some modicum of temporary relief may be provided to rural consumers unable to receive an acceptable picture from a local network affiliate through a conventional roof top antenna.

III. Conclusion

NRECA welcomes this opportunity to express these opinions on behalf of its rural membership and urges the Commission to act promptly in response to these and other comments to ensure that rural Americans are not disenfranchised from participating fully in the modern telecommunications world.

Respectfully submitted,

NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION

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